

Date: 19980522

Docket: C.A. 143582

NOVA SCOTIA COURT OF APPEAL

Cite as: Williams v. Nova Scotia (Workers' Compensation Board),
1998 NSCA 111

Clarke, C.J.N.S.; Freeman and Flinn, J.J.A.

BETWEEN:

WORKERS' COMPENSATION BOARD	)	David P. S. Farrar
OF NOVA SCOTIA	)	John R. Ratchford
	)	for the Appellant
Appellant)	
Respondent on Cross-Appeal)	
	)	Kenneth H. LeBlanc
- and -	)	Linda L. Zambolin
	)	for the Respondent
SHELLEY WILLIAMS	)	Shelley Williams
)	
Respondent)	
Appellant on Cross-Appeal	)	Sarah Bradfield
	)	for the Respondent
- and -	)	Tribunal (Watching
	)	Counsel only)
WORKERS' COMPENSATION APPEALS)	
TRIBUNAL OF NOVA SCOTIA)	
	)	Judgment Heard:
Respondent	)	May 22, 1998
Respondent on Cross-Appeal)	
)	
	)	Judgment Delivered:
	)	May 22, 1998
)	
)	

THE COURT: Decision of Workers' Compensation Appeals Tribunal set aside and the entire matter remitted to the Tribunal for its reconsideration, per oral reasons for judgment of Clarke, C.J.N.S.; Freeman and Flinn, J.J.A. concurring.

NOVA SCOTIA COURT OF APPEAL

BETWEEN:

WORKERS' COMPENSATION BOARD)
OF NOVA SCOTIA)

Appellant)
Respondent on Cross-Appeal)

- and -)

SHELLEY WILLIAMS)

Respondent)
Appellant on Cross-Appeal)

- and -)

WORKERS' COMPENSATION)
APPEALS TRIBUNAL OF N.S.)

Respondent)
Respondent on Cross-Appeal)

REASONS FOR
JUDGMENT BY:

Clarke, C.J.N.S.
(orally)

The reasons for judgment of the Court were delivered orally by:

CLARKE, C.J.N.S.:

This an appeal and cross-appeal from the decision of the Workers' Compensation Appeals Tribunal dated November 12, 1997, by which it granted the worker, Ms. Williams, temporary total disability benefits. In awarding compensation the Tribunal found that s. 229 of the current **Act** requires the application of the former **Act**. Further, the Tribunal refused to apply Board policy because of its decision that the former **Act** applied. In light of the recent decision of this Court in **Muise**, C.A. 141481, delivered May 12, 1998, which was not available to the Workers' Compensation Appeals Tribunal at the time of its deliberations, it is our unanimous opinion that this matter should be remitted to the Workers' Compensation Appeals Tribunal to consider the impact, if any, that **Muise** has upon Ms. Williams' claim.

Counsel for the claimant asks this Court to decide the issue of compensation on the ground that all of the evidence is before us in the record, rather than remitting it back to the Tribunal. He submits that the impact of **Muise** does not change the outcome he seeks for his client. While that may be so, it is for the Tribunal and not this Court to make that decision.

Therefore we set aside the decision of the Workers' Compensation Appeals Tribunal. We order that the entire matter be remitted to the Workers' Compensation Appeals Tribunal for its reconsideration.

Clarke, C.J.N.S.

Concurred in:

Freeman, J.A.

Flinn, J.A.